

REMARKS

In response to the Office Action mailed on September 4, 2009, Assignee respectfully requests reconsideration based on the above amendments and the following remarks. Assignee respectfully submits that the claims as presented are in condition for allowance.

Claims 1, 14-17, 20-21, and 24 were amended, leaving Claims 1-4, 6, 9-11, and 14-25 for consideration upon entry of the present amendment. No new matter has been added.

Support for Claim Amendments

The amendments to Claims 1, 14-17, 20-21, and 24 are fully supported in Assignee's specification. See, for example, paragraph [0016] in the specification as originally filed.

Claim Rejections - 35 U.S.C. § 103

Claims 1, 3, 6, and 9-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,113,479 to Wong et al. (hereinafter "Wong") in view of U.S. Patent No. 6,594,265 to Etorre et al. (hereinafter "Etorre"). Assignee respectfully traverses the rejection and submits that Wong in view of Etorre does not teach or suggest all of the elements of Claims 1, 3, 6, and 9-11.

Claim 1, as amended, recites, *inter alia*, "monitoring ... a network for a task that meets the at least one turbo boost triggering criteria ... and if the monitoring results in locating the task that meets the at least one of the turbo boost triggering criteria then automatically invoking ... the network turbo boost service for the task; wherein the plurality of turbo boost triggering criteria includes a network-based trigger and an application-based trigger generated by an application provider system separate from the service provider system, the application-based trigger including a request from the application provider system to initiate the turbo boost service, and the application-based trigger generated independent of information about a current traffic load on the network". Assignee submits that neither Wong nor Etorre, alone or in combination, teaches or suggests at least these elements.

Wong is directed to an aggregated rate control method and system for adjusting the rate control of digital data within a digital communications network based on content or type. (Wong; Abstract.) Etorre is directed to providing a standard ATM interface to an ATM access network for accessing a non-standard ATM bandwidth adjustable virtual path connection. (Etorre; Abstract.)

The Examiner states that Wong does not teach a network and an application-based trigger for enacting bandwidth increases, and the Examiner looks to Etorre for this teaching. Specifically, the Examiner cites column 17, lines 29-56 of Etorre for teaching “an application-based trigger generated by an application provider system separate from the service provider system, the application-based trigger including a request from the application provider system to initiate the turbo boost service” as recited, *inter alia*, in Claim 1. This section of Etorre teaches a backbone bandwidth management server (BBMS) that adjusts the bandwidth of virtual paths according to fluctuations of voice traffic on a network. At column 17, lines 8-15 Etorre teaches that the BBMS system is a centralized server that has knowledge of the network topology and traffic load. Thus, Etorre does not teach or suggest “the application-based trigger generated independent of information about a current traffic load on the network” as recited, *inter alia*, in Claim 1.

The addition of Wong does not cure this deficiency Etorre. Thus, Wong in view of Etorre does not teach or suggest all of the elements of Claim 1. Claims 3, 6, and 9-11 depend from Claim 1 and are patentable over Wong in view of Etorre for at least the reasons advanced with reference to Claim 1.

Claims 21-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Pub. No. 2004/0215806 to Brenner et al. (hereinafter “Brenner”) and Etorre. Assignee respectfully traverses the rejection and submits that Brenner and Etorre, alone or in combination, do not teach or suggest all of the elements of Claims 21-25.

Claim 21, as amended, recites, *inter alia*, “turbo boost triggering options includes ... being notified when a request is received from an application ... the request is generated by the application ... independent of information about a current traffic load on the network.” Assignee submits the neither Brenner nor Etorre, alone or in combination, teach or suggest at

least these elements.

Brenner is directed to allowing an Internet service provider to monitor its available bandwidth and offer users excess bandwidth at varying rates, hence filling the backbone when unused. (Brenner; Abstract.)

As described herein with respect to Claim 1, Etorre does not teach or suggest at least the element “the request is generated by the application ... independent of information about a current traffic load on the network” as recited, *inter alia*, in Claim 21.

The addition of Brenner does not cure this deficiency Etorre. Thus, Brenner and Etorre, alone or in combination, do not teach or suggest all of the elements of Claim 21. Claims 22-23 depend from Claim 21 and are patentable over Brenner and Etorre for at least the reasons advanced with reference to Claim 21.

Claim 24, as amended, recites, *inter alia*, “turbo boost triggering options include ... being notified when a request is received from an application ... the request is generated by the application ... independent of information about a current traffic load on the network.” Assignee submits the neither Brenner nor Etorre, alone or in combination, teach or suggest at least these elements. As described herein with respect to Claim 1, Etorre does not teach or suggest at least the element “the request is generated by the application ... independent of information about a current traffic load on the network” as recited, *inter alia*, in Claim 24. The addition of Brenner does not cure this deficiency in Etorre. Thus, Brenner and Etorre, alone or in combination, do not teach or suggest all of the elements of Claim 24. Claim 25 depends from Claim 24 and is patentable over Brenner and Etorre for at least the reasons advanced with reference to Claim 24.

Claims 2, 4, and 14-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wong and Etorre in further view of Brenner. Assignee respectfully traverses the rejection and submits that Wong and Etorre in further view of Brenner does not teach or suggest all of the elements of Claims 2, 4, and 14-20.

Claims 2, 4, and 14 depend from Claim 1. Assignee submits that the addition of Brenner does not cure the deficiencies of Wong in view of Etorre noted above with respect to

Claim 1. Assignee submits that Claims 2, 4, and 14 are allowable at least due to their dependency on Claim 1.

Claim 15, as amended, recites, *inter alia*, “receiving at a service provider system at least one turbo boost triggering criteria ... monitoring, at the service provider system, a network for a task that meets the at least one of the turbo boost triggering criteria; if the monitoring results in locating the task that meets the at least one of the turbo boost triggering criteria then transmitting an offer ... to invoke the network turbo boost service for the task ... wherein the plurality of turbo boost triggering criteria includes a network-based trigger and an application-based trigger generated by an application provider system separate from the service provider system, the application-based trigger including a request from the application provider system to initiate the turbo boost service, and the application-based trigger generated independent of information about a current traffic load on the network.” As described above with respect to Claim 1, Wong in view of Etorre does not teach at least these elements. The addition of Brenner does not cure the deficiencies of Wong in view of Etorre and Assignee submits that is Claim 15 is patentable over Wong and Etorre in further view of Brenner.

Claim 16, as amended, recites, *inter alia*, “receiving at a service provider system at least one turbo boost automatic triggering criteria ... monitoring, at the service provider system, a network for a task that meets ... the at least one turbo boost automatic triggering criteria ... if the monitoring results in locating the task that meets the at least one of the turbo boost automatic triggering criteria ... then invoking the network turbo boost service for the task ... wherein the plurality of turbo boost automatic triggering criteria includes a network-based trigger and an application-based trigger generated by an application provider system separate from the service provider system, the application-based trigger including a request from the application provider system to initiate the turbo boost service, and the application-based trigger generated independent of information about a current traffic load on the network.” As described above with respect to Claim 1, Wong in view of Etorre does not teach at least these elements. The addition of Brenner does not cure the deficiencies of Wong in view of Etorre and Assignee submits that is Claim 16 is patentable over Wong and Etorre in further view of Brenner.

Claim 17, as amended, recites, *inter alia*, “service provider system comprising: a trigger profile system for receiving at least one of a plurality of turbo boost triggering criteria ... a trigger detecting system for monitoring the network for a task that meets the at least one of the plurality of turbo boost triggering criteria ... if the monitoring ... results in locating the task that meets the at least one of the turbo boost triggering criteria then transmitting an offer ... to invoke the network turbo boost service for the task ... wherein the plurality of turbo boost triggering criteria includes a network-based trigger and an application-based trigger generated by an application provider system separate from the service provider system, the application-based trigger including a request from the application provider system to initiate the turbo boost service, and the application-based trigger generated independent of information about a current traffic load on the network.” As described above with respect to Claim 1, Wong in view of Etorre does not teach at least these elements. The addition of Brenner does not cure the deficiencies of Wong in view of Etorre and Assignee submits that is Claim 17 is patentable over Wong and Etorre in further view of Brenner. Claims 18-19 depend from Claim 17 and are patentable at least due to their dependence on Claim 17.

Claim 20, as amended, recites, *inter alia*, “receiving at least one turbo boost triggering criteria ... monitoring a network for a task that meets the at least one of the turbo boost triggering criteria; if the monitoring results in locating the task that meets the at least one of the turbo boost triggering criteria then transmitting an offer ... to invoke the network turbo boost service for the task ... wherein the plurality of turbo boost triggering criteria includes a network-based trigger and an application-based trigger generated by an application provider system separate from a service provider system, the application-based trigger including a request from the application provider system to initiate the turbo boost service, and the application-based trigger generated independent of information about a current traffic load on the network.” As described above with respect to Claim 1, Wong in view of Etorre does not teach at least these elements. The addition of Brenner does not cure the deficiencies of Wong in view of Etorre and Assignee submits that is Claim 20 is patentable over Wong and Etorre in further view of Brenner.

CONCLUSION

In this Amendment, Assignee has amended Claims 1, 14-17, 20-21, and 24 in this application to facilitate expeditious prosecution of the application. Assignee is not conceding that the subject matter encompassed by the claims prior to this Amendment is unpatentable over the art cited by the Examiner. Assignee respectfully reserves the right to pursue claims in one or more continuing applications, including claims capturing the subject matter encompassed by claims prior to this Amendment and additional claims.

It is believed that the foregoing amendments and remarks are fully responsive to the Office Action and that the claims herein are in condition for allowance. In the event the Examiner has any questions regarding the instantly submitted response, the undersigned respectfully request the courtesy of a telephone conference to discuss any matters in need of attention.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully Submitted,

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